

§ 1952.324

compliance officers. After opportunity for public comment and service on the AFL-CIO, the Assistant Secretary approved these revised staffing requirements on January 17, 1986.

[51 FR 2488, Jan. 17, 1986]

§ 1952.324 Final approval determination.

(a) In accordance with section 18(e) of the Act and procedures in 29 CFR part 1902, and after determination that the State met the “fully effective” compliance staffing benchmarks as revised in 1986 in response to a Court Order in *AFL-CIO v. Marshall* (CA 74-406), and was satisfactorily providing reports to OSHA through participation in the Federal-State Integrated Management Information System, the Assistant Secretary evaluated actual operations under the Indiana State plan for a period of at least one year following certification of completion of developmental steps (46 FR 49119). Based on the 18(e) Evaluation Report for the period of March 1984 through December 1985, and after opportunity for public comment, the Assistant Secretary determined that in operation the State of Indiana’s occupational safety and health program is at least as effective as the Federal program in providing safe and healthful employment and places of employment and meets the criteria for final State plan approval in section 18(e) of the Act and implementing regulations at 29 CFR part 1902. Accordingly, the Indiana plan was granted final approval, and concurrent Federal enforcement authority was relinquished under section 18(e) of the Act effective September 26, 1986.

(b) Except as otherwise noted, the plan which has received final approval covers all activities of employers and all places of employment in Indiana. The plan does not cover maritime employment in the private sector; Federal government employers and employees; the U.S. Postal Service (USPS), including USPS employees, and contract employees and contractor-operated facilities engaged in USPS mail operations; the enforcement of the field sanitation standard, 29 CFR 1928.110, and the enforcement of the temporary labor camps standard, 29 CFR 1910.142, with respect to any agricultural establish-

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ment where employees are engaged in “agricultural employment” within the meaning of the Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. 1802(3), regardless of the number of employees, including employees engaged in hand packing of produce into containers, whether done on the ground, on a moving machine, or in a temporary packing shed, except that Indiana retains enforcement responsibility over agricultural temporary labor camps for employees engaged in egg, poultry, or red meat production, or the post-harvest processing of agricultural or horticultural commodities.

(c) Indiana is required to maintain a State program which is at least as effective as operations under the Federal program; to submit plan supplements in accordance with 29 CFR part 1953; to allocate sufficient safety and health enforcement staff to meet the benchmarks for State staffing established by the U.S. Department of Labor, or any revisions to those benchmarks; and, to furnish such reports in such form as the Assistant Secretary may from time to time require.

[51 FR 34215, Sept. 26, 1986, as amended at 62 FR 2564, Jan. 17, 1997; 65 FR 36628, June 9, 2000]

§ 1952.325 Level of Federal enforcement.

(a) As a result of the Assistant Secretary’s determination granting final approval to the Indiana plan under section 18(e) of the Act, effective September 26, 1986, occupational safety and health standards which have been promulgated under section 6 of the Act do not apply with respect to issues covered under the Indiana plan. This determination also relinquishes concurrent Federal OSHA authority to issue citations for violations of such standards under sections 5 (a)(2) and 9 of the Act; to conduct inspections and investigations under section 8 (except those necessary to conduct evaluation of the plan under section 18(f) and other inspections, investigations, or proceedings necessary to carry out Federal responsibilities not specifically preempted by section 18(e)); to conduct enforcement proceedings in contested cases under section 10; to institute proceedings to correct imminent dangers